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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,250	09/28/2001	Michael J. Mullane	MJM-50X	6233

7590 08/15/2003

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EXAMINER

THISSELL, JENNIFER I

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/967,250

Applicant(s)

MULLANE, MICHAEL J.

Examiner

Jennifer I Thissell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 9-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,9-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 9-13, 15, 16, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline ('929) in view of Corvi ('499) and further in view of Negre ('552). Cline teaches a snow stop comprising a base member 3 having an underside, and a snow-restraining member 17 connected to a top side of the base member. Cline has grooves 31 on the underside of the base for adhesive to flow and adhere. Cline does not have grooves in a cross-hatch configuration on the underside of the base member with holes that are aligned with the cross-hatching for adhesive to fill in the holes and form "glue-rivets". Corvi teaches that cross-hatching is a known friction enhancing feature (column 41, lines 54-55), and Negre teaches that it is known to provide holes in elements in order to have adhesive fill the hole and bead through on top for securement of the element (Figure 4). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide cross-hatching along the bottom of the base and holes aligned with the cross-hatching where the adhesive can flow, in order to increase the overall

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securement of the snow stop to the roof. These friction and securement enhancing features are well known and utilized in many various situations.

It would have also been obvious to one having ordinary skill in the art to provide holes that are generally evenly spaced, since this would provide evenly spaced additional hold to the element.

Cline also teaches a brace that supports the snow-restraining member (Figures 1-3), the base is in the form of a rounded square, the restraining member is substantially parallel to a rear boundary and is positioned between the rear linear and front boundaries of the base and extends a distance equal the length of the rear boundary, and the brace is perpendicular to the rear boundary and extends forward to the restraining member. The uppermost portion of the grooves are considered the textured surface on the underside of the surface, and the ratio of restraining member to the base member can be seen to be about 1:2.

Regarding claims 12 and 15, Cline does not show the base with a round shape. However, since applicant indicates in his specification (page 9) that the shape and the dimensions of the snow stop may vary, that any other suitable shape of size of the device and the components may be employed, and there is no indication of criticality of the round shape found, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize any well known shape for the base, as a matter of obvious

design choice. A circular base member may appear aesthetically pleasing to someone who prefers more of a compact appearance.

Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline ('929), in view of Corvi ('499), in view of Negre ('552), and further in view of Smeja et al. ('799). Cline, Corvi, and Negre teach an element as stated above, but Cline does not include a relief opening in the upstanding members. Smeja shows that it is known in the art to provide relief openings 50 in upstanding members of a snow stop in order to allow rain water or water from melting ice to flow through the snow guard. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place relief openings in the upstanding members of a snow guard element.

Claims 21, 22, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline ('929) in view of Negre ('552). Cline teaches an element attached to a roof that comprises a base member 3 having an underside 15, there are grooves 31 on the underside of the base, there is a snow-restraining member 17 connected to a top side of the base member, the textured surface is the uppermost portion of the grooves, and the element is in combination with and adhesively fixed to a roof. Cline does not teach holes that are aligned with the grooves for glue to be located in order to form glue-rivets. Negre teaches

that it is known to provide holes in elements in order to have adhesive fill the hole and bead through on top for securement of the element (Figure 4).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide holes aligned with the grooves where the adhesive can flow, in order to increase the overall securement of the snow stop to the roof. This securement enhancing feature is well known and utilized in many various situations.

Cline states that the grooves may be triangular shaped, or may have any other acceptable shape or size, and although it does not specifically state that trapezoidal is the shape of the groove, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the known shape of a trapezoid, since this shape is similar to a triangle and would provide a greater amount of area for the adhesive to flow through. This would consequently enhance the securement of the element.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750. The examiner can normally be reached Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to be 'JIT'.

JIT

August 11, 2003

A handwritten signature in black ink, appearing to be 'Carl D. Friedman'.

Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600